

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
GEORGIA ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**DECLARATION OF JEFFREY H. E. SCHOENBERG IN SUPPORT OF
BRIEF ON STANDING**

I, JEFFREY H. E. SCHOENBERG, declare, under penalty of perjury, pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. My name is Jeffrey H. E. Schoenberg. I am an elector of the State of Georgia and a resident of DeKalb County. I have personal knowledge of the facts in this declaration and, if called to testify as a witness, I would testify under oath to these facts.

2. I hereby incorporate my previous declarations as filed in this case as if fully restated verbatim herein.

3. I am currently registered to vote in Dunwoody, Georgia in DeKalb County.

4. I intend to vote in all future elections for which I am eligible.

5. I have observed and followed developments in Georgia's method of conducting elections for nearly 20 years. This, combined with vulnerabilities with Georgia's election system, Georgia's persistent failures to identify and address election vulnerabilities (in an environment in which threats have increased in sophistication and frequency), and Georgia's careless and irresponsible approach to implementing ballot-marking devices (BMDs), have only added to my concerns that my vote will not be accurately cast or counted.

6. The adoption of the BMD-based election system awarded to Dominion Voting Systems, Inc. by the Georgia Secretary of State's office (the "Election System") has not inspired new confidence in Georgia elections. This Election system requires the use of BMDs for in-person voting. The paper ballots produced by the BMDs include an unverifiable, non-human-readable Quick-Response ("QR") code. Those ballots are then fed into scanners/tabulators that tabulate votes based on barcodes, rather than any human-readable marks or text. Unfortunately, I have no more confidence in the BMD system to accurately count my vote in each election than I had in the prior DRE system.

7. Exercising my right to vote has long been an individual right that is very personal to me. I take that right—and my corresponding choices—very seriously. I think carefully about each vote I cast, making my own personal and individual

judgment about what I believe is the right vote for each question presented to me as an elector in each election in which I vote. I understand that my individual vote likely differs from that of many other Georgia electors and could determine the outcome of a given election. But as important to me as election outcomes are, casting my own individual vote through the personal exercise of my constitutional right as an elector and having confidence that my vote will count—regardless of the outcome of the election—are paramount to me.

8. I view my vote in any given election as a deeply personal expression of my individual freedoms and my own unique combination of values, beliefs, judgments, perspectives, and life experiences, which necessarily differ from every other elector voting in the same election. Even as to those electors that cast the same votes as I in a given election, what my vote represents and how I decided to vote in that exact manner are unique to me. Were my vote lost, altered, or otherwise not counted in any election, that would be a profoundly personal harm to me, regardless of the outcome of that election. It would mean that my own personal voice—unique to me—were omitted from an election. That other voters also had their votes lost, altered, or otherwise not counted in the same election would have no bearing on the personal harm to me from losing my own right to vote, regardless of how they voted. That personal harm to me also would not be affected by any measures that achieved the outcome of the election intended collectively by Georgia electors (assuming that could be known), as my personal vote nonetheless still would be lost, altered, or

otherwise not counted in that election.

9. My voting experience in the January 2021 run-off election for U.S. Senate seats and the Public Service Commission post-runoff highlights some of my concerns. Voting in person has long been an especially important and personal aspect of my individual right to vote. The experience of casting my individual vote in person at the polls provides a weighty opportunity to personally participate in our democracy through the express of my own personal voice alongside my fellow electors expressing their own unique respective voices. Unfortunately, my concerns about the reliability of Georgia's new BMD system in today's environment forced me to turn to absentee voting as a lesser option to cast my vote (albeit with additional risks, such as with mailing issues), since I could fill out my ballot by hand. But that option proved to be illusory.

10. On November 11, 2020, I timely requested an absentee ballot for the PSC race only as, at the time I was completing the application, that was the next race on the calendar. I quickly received a return email saying the application was received and would be processed. That was the only communication I ever received back about the application. Later that same day, as I now know, the decision was made to combine the two runoff dates, merging the PSC race into the January 5, 2021 runoff election for the two U.S. Senate seats. I did not resubmit an application for an absentee ballot for January 5 and never received the absentee ballot I had requested. At some point, it occurred to me that my application had likely been discarded,

ignored, or just treated as a nullity by DeKalb County. By late December, I realized that I was out of time to arrange for an absentee ballot so I resolved to vote early in person. I did so, likely in late December, at Dunwoody Library, which is both my regular precinct and one of DeKalb's usual early voting sites. There, I voted using a BMD machine. I noted a shocking lack of privacy and instructions that were not very explicit and I wondered how frequently voters were thrown off by the poor instructions. I figured out what was required, printed my ballot and reviewed the human-readable portion of the ballot. I noted, with great disappointment, the QR code which I could not read. I took the ballot to the in-precinct scanner and was instructed to load the ballot into the scanner myself. I left knowing the process better but without complete confidence that my vote would be counted as cast.

11. With a ballot containing a QR code that I am unable to read and that an auditor would be unable to confirm actually reflects my intent—as opposed to a hand-marked paper ballot that I can mark, review, and verify personally and individually—I have no confidence that a meaningful audit is possible, even if one were to be required for every election. And again, even if an audit could reliably confirm or achieve the election outcome intended by voters collectively (assuming that could be determined), it would do nothing to confirm that my own personal vote was counted as I intended. Only a reasonably reliable election system can do that, and I am not aware of any such system other than voting by hand on a paper ballot.

12. My experience with the January 2021 election showed me that despite

my best efforts, I can still be forced to use an unverifiable election system. My attempt to obtain a paper ballot proved futile. And ultimately I cannot know whether the ballot I cast reflected my actual choices, or if it was counted at all. With Georgia's BMD system, I will never know whether any vote I cast in that system is counted as I intended. This means that I will never know if my uniquely personal expression of my individual right to vote will ever be heard in any election in Georgia, regardless of the outcome in any election.

I declare under penalty of the perjury laws of the State of Georgia and the United States that the foregoing is true and correct and that this declaration was executed this 12th day of February, 2021 in Dunwoody, Georgia.



JEFFREY H. E. SCHOENBERG